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PACIFIC  **TELESIS**
Group-Washington

November 25, 1996

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Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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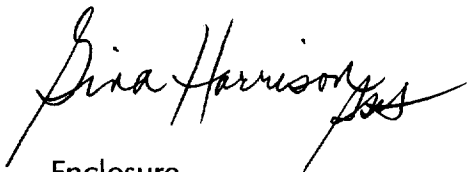
Dear Mr. Caton:

Re: *WT Docket No. 96-6, Amendment of the Commission's Rules To Permit Flexible Service Offerings in the Commercial Mobile Radio Services*

On behalf of Pacific Telesis Group, please find enclosed an original and six copies of its "*Comments on Further Notice of Proposed Rulemaking*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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NOV 25 1996

Federal Communications Commission
Office of Secretary

In the Matter of

Amendment of the Commission's Rules To Permit
Flexible Service Offerings in the Commercial
Mobile Radio Services

WT Docket No. 96-6

COMMENTS OF PACIFIC TELESIS GROUP
ON FURTHER NOTICE OF PROPOSED RULEMAKING

I. INTRODUCTION AND SUMMARY

The Pacific Telesis Group ("Pacific") hereby submits comments on the regulatory treatment of those Commercial Mobile Radio Services ("CMRS") which are offered as "fixed wireless local loop" services and serve as substitutes for local exchange service ("substitute services").¹ We believe substitute services should be regulated in the same manner as local exchange services, and be subject to all of the requirements of Title II of the Communications Act.

¹ See In the Matter of Amendment of the Commission's Rules To Permit Flexible Service Offerings in the Commercial Mobile Radio Services, WT Docket No. 96-6, FCC 96-283, First Report and Order and Further Notice of Proposed Rulemaking (rel. August 1, 1996) ("FNPRM").

II. FIXED WIRELESS LOCAL LOOP SERVICES SHOULD BE REGULATED AS LOCAL EXCHANGE SERVICES TO THE EXTENT THEY ACT AS SUBSTITUTES FOR WIRELINE LOCAL EXCHANGE SERVICES

As we have stated on other occasions,² fixed wireless local loop services should be regulated as local exchange services where they act as substitutes for wireline local exchange services. Considerations of regulatory parity and fairness dictate that what customers perceive to be like services should be regulated in like fashion, regardless of technology. As the Commission has noted, "broadband PCS holds the promise of being a full competitor for cellular service and a potentially effective substitute for the wired local loop. . . ."³ We agree, and advocate regulatory parity wherever fixed wireless local loop services substitute for local exchange services.

We do not advocate that all fixed wireless services should be regulated as local exchange service, however. For example, Pacific Bell Mobile Services is investigating the possibility of using a small portion of its PCS spectrum for fixed wireless intermediate links for *back haul*. These links would connect sites in the wireless network. We believe that this use should be considered "ancillary" to Pacific's mobile operations and regulated as CMRS under the existing rule. However, if the Commission concludes it is not ancillary, we believe it should still be treated as CMRS. It is simply a component in the overall PCS offering made in compliance with all the technical rules that apply to PCS.

² See, e.g., Comments of Pacific Telesis Group, Wireless Fixed Access Local Loop Services -- DSC's Petition for Allocation of Radio Spectrum in the 2 GHz Band for the Provision of Wireless Fixed Access Local Loop Services, RM 8837, filed August 12, 1996, at 2-3; see also Comments of Pacific Telesis Group, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, filed May 16, 1996, at 81, and Reply Comments of Pacific Telesis Group, filed May 30, 1996, at 37.

³ Notice of Proposed Rulemaking and Notice of Inquiry, Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, 9 F.C.C. Rcd 5408, 5430 (1994).

On the other hand, where a CMRS provider offers a *retail* fixed wireless local loop service to end users, the service should be regulated as a local exchange service. Furthermore, whether the CMRS service is wireless or “fixed” wireless, if a CMRS provider is successful in applying for and receiving a subsidy for the service from either the federal or state Universal Service Fund, the subsidized service automatically should be regulated as local exchange carriage under Title II. If a CMRS service is determined to be “primary” telecommunications service for a residential customer, this fact clearly would demonstrate the service’s substitutability for wireline local exchange service.

III. TO THE EXTENT THAT A FIXED WIRELESS LOCAL LOOP SERVICE IS FOUND TO BE A SUBSTITUTE FOR WIRELINE LOCAL EXCHANGE SERVICE, THE SERVICE SHOULD BE SUBJECT TO ALL OF THE REQUIREMENTS OF TITLE II

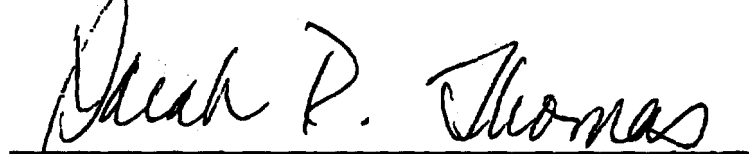
Once a fixed wireless local loop service qualifies for regulation as a local exchange service, it should *not* be exempt from any Title II requirements. As the Commission acknowledges, at least implicitly, like services should be regulated alike, regardless of technology. E.g., FNPRM, ¶ 52 (spectrum allocation for service should not dictate regulatory treatment). This presumption should require that Title II’s requirements apply fully to CMRS fixed local loop services that substitute for local exchange services.

IV. CONCLUSION

We support like regulation of like services. We also advocate relaxed regulation of all local exchange services. However, as long as regulation is with us, fixed wireless local loop services which substitute for wireline local exchange services should live by the same rules as do local exchange carriers. Fairness requires nothing less.

Respectfully submitted,

PACIFIC TELESIS GROUP

A handwritten signature in black ink, appearing to read "Sarah R. Thomas", is written over a horizontal line.

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